

Preamble

These rules (at times referred to as the Local Rules) supplement the Uniform Rules of Practice before the Navy-Marine Corps Courts-Martial (*see* NAVMARTRIJUDACTINST 5813.4A, App. B, 26 January 2009) and govern all courts-martial convened in the Northern Judicial Circuit. These Local Rules are promulgated by the Circuit Military Judge for the Northern Judicial Circuit under Rule for Courts-Martial 108 and 801(b) and pursuant to the authority delegated in the Uniform Rules. They are designed to promote a common understanding of the procedure for the practice of military criminal law in courts-martial within the Northern Judicial Circuit. These rules are effective 1 June 2009. All previously published rules are hereby cancelled.

Local Rule 1: Applicability

Local Rule 1.1(N): These Local Rules apply to all Navy-Marine Corps courts-martial tried under the cognizance of the Circuit Military Judge of the Northern Judicial Circuit.

Local Rule 1.2(N): All counsel practicing before a court in this circuit shall familiarize themselves with both the Uniform Rules of Practice before the Navy-Marine Corps Courts-Martial and these Local Rules. Counsel shall certify to the court at their first appearance that they have read and will comply with both sets of rules.

Local Rule 2: Purpose

Local Rule 2.1(N): These Local Rules are intended to facilitate the orderly and just disposition of courts-martial and to provide for more efficient application of judicial and legal resources throughout the circuit.

Local Rule 2.2(N): Operating within our adversarial system, the goal of a trial is the fair and impartial administration of justice. To provide the best opportunity for justice to be done, a trial should accomplish an efficient presentation of evidence and arguments to the trier of fact in a professional manner.

Local Rule 3: Construction

Local Rule 3.1(N): a. Throughout these Local Rules the following definitions will apply:

- (1) "Filing" of a pleading, notice, or document with the court means that a true and complete copy of the pleading, notice, or document in question is delivered to the detailed military judge and clerk of court.
- (2) "Service" upon opposing counsel means that a true and complete copy of a filed pleading or document is delivered to opposing counsel.
- (3) "Notice" is established when the transmitting attorney establishes that the receiving attorney has, in fact, received the pleading, document, or information transmitted. For the purpose of this definition, "receiving attorney" means the lead counsel in the case, whether military or civilian.

If the lead counsel is unavailable, however, notice is deemed to be established by the receipt of the pleading, document, or information by any counsel detailed to the case or assigned as individual military counsel.

b. Original documents. All original documents should be retained and physically entered into the record of trial at the next session of the court-martial in question.

c. Method of filing, service, and notice:

(1) Physical service: Proof of physical delivery to the judge or attorney in question will establish filing, service, and/or notice as appropriate.

(2) Electronic transmissions: In lieu of physical delivery, each filing or matter to be served may be transmitted electronically to the military judge or counsel concerned. Proof that an electronic document was received and opened by the receiving military judge or receiving counsel will constitute proof of filing or service of the document in question, and will constitute proof of notice as to that document, except as to any portion of the pleading or document that was not transmitted electronically. Electronic transmission and receipt will constitute filing and service, and can be substituted for physical service to the extent that the electronic filing or matter to be served corresponds to the original of the filing or matter to be served. Originals will be entered into the record of trial at the next session of the court-martial.

(3) Fax transmissions: Fax transmissions cannot be assumed to be delivered to the judge or counsel in question. In order to satisfy filing, service, and/or notice requirements for faxed documents, the transmitting attorney must verify by voice or other means that the addressee did in fact receive the faxed document.

Local Rule 3.2(N): Failure to comply with these Local Rules does not provide any rights or remedies to the accused and the rules will be applied and interpreted in that light.

Local Rule 3.3(N): Consistent with law and ethical standards, the detailed military judge may modify or suspend any of these Local Rules when required by the facts of a case or in the interests of justice.

Local Rule 4: Referred Charges

Local Rule 4.1(N): After referral of charges, trial counsel shall provide the responsible judicial circuit with a copy of those charges, along with the applicable convening order, as soon as possible, but not later than seven calendar days after referral.

Local Rule 4.2(N): Defense counsel will examine the personal data on the charge sheet, determine its accuracy, and notify the trial counsel and the military judge of any necessary corrections, additions, or deletions as soon after service of the charges as possible.

Local Rule 4.3(N): All authorized changes to the charge sheet shall be initialed and dated by the trial counsel or other representative of the convening authority. See R.C.M. 603.

Local Rule 4.4(N): The Military Justice Officer or Senior Trial Counsel shall provide the Circuit Military Judge and the Circuit Docketing Judge an explanation regarding any referred court-martial that has not been docketed for arraignment within 60 days of preferral.

Local Rule 5: Civilian Counsel

Local Rule 5.1(N): If an accused retains civilian counsel, detailed defense counsel shall furnish civilian counsel with a copy of these local rules as well as the Uniform Rules. Civilian counsel shall cause to be served on the clerk of court a written notice of appearance. The notice shall be in the form of a pleading and must contain the following: Name of the accused; counsel's name, office address, telephone/fax numbers, and electronic mail address; and jurisdiction(s) where the counsel is presently admitted to practice and in good standing. Additionally, the notice shall acknowledge familiarity with these rules. Attachment 1 is a sample of a proper notice of appearance. The filing of any pleading relative to a case that contains the signature of counsel constitutes an appearance of such counsel in that case.

Local Rule 6: Northern Circuit Docketing Procedures

Local Rule 6.1(N): In order to enter a case on the docket for the upcoming week, trial counsel shall submit, via the Military Justice Officer or Senior Trial Counsel, a completed Pretrial Information Report (PTIR), attachment 2. Subsequent PTIRs shall be submitted, and are required, for each scheduled or unscheduled session of the case, and may be initiated by either trial counsel or defense counsel. Only cases with referred charges will be added to the docket.

Local Rule 6.2(N): The PTIR shall include all applicable enclosures not previously submitted. Absence of any enclosure must be explained in the PTIR.

Local Rule 6.3(N): In the initial PTIR, trial counsel shall include copies of any military orders or directives alleged to have been violated, and copies of any federal or state statutes alleged to have been violated. Prior to trial on the merits, trial and defense counsel shall each include proposed elements for any federal or state statutes alleged to have been violated, together with all applicable definitions.

Local Rule 6.4(N): In order to docket a case for anytime other than the upcoming week (or within 7 days), counsel must submit a Motion for Docketing (MFD), attachment 3. A PTIR is not required at that time, but must be submitted the week prior to the first scheduled session.

Local Rule 6.5(N): The accused, via Defense counsel, shall enter forum and pleas on the date established by the court. Such entry shall be either orally on the record, or in writing by use of attachment 4. If in writing, they will be entered on the record at the next session of court.

Local Rule 6.6(N): Counsel should also include in Part 2 of the PTIR any special circumstances or requests that are specific to the next session of court, such as starting time, witness availability, or other logistical issues.

Local Rule 6.7(N): Trial counsel and defense counsel both must sign the PTIR. However, its submission should not be delayed for the lack of a signature. Accordingly, provided counsel have communicated with one another regarding the contents of the PTIR, one counsel may sign for the other with an explanation for the missing signature in Part 2. This will serve to verify to the court that the non-signing counsel is aware of the contents and has authorized the other to sign on his or her behalf.

Local Rule 6.8(N): The PTIR serves to prepare the military judge for each session of court. Accordingly, a new PTIR must be submitted prior to each session of court. This applies even if the information has not changed since the previous session. Enclosures to the PTIR do not need to be re-submitted if they were previously submitted and have not changed.

Local Rule 6.9(N): As stated in Rule 6.1(N), a PTIR is required for every scheduled session of court. If a previously scheduled session of court no longer appears to be necessary, a PTIR is still required. The reason for requesting to cancel the session should be explained in part 2 of the PTIR. As an example, if an Article 39(a) session was scheduled to litigate motions, and no motions have been filed, counsel still must submit a PTIR for that session, but may indicate in the PTIR that neither party desires a session. Unless all charges have been withdrawn in writing, only the military judge has the authority to cancel or move any session of court.

Local Rule 6.10(N): Each week, the Circuit Military Judge publishes the docket on Navy Knowledge Online (NKO). The Circuit Military Judge normally appoints a docketing judge within the circuit who will serve in that capacity for a designated duration. The docketing judge and the Clerk of Court shall be the circuit's points of contact for all docketing issues. The Clerk of Court is the administrative assistant to the Circuit Military Judge, Northern Judicial Circuit. The Clerk of Court is responsible for all administrative functions associated with the circuit and will be treated with the respect due the court when handling such matters, regardless of his/her rank.

Local Rule 6.11(N): Every week, each Military Justice Officer, Senior Trial Counsel, or other designated person is required to submit a Docketing Memorandum to the Clerk of Court, *in writing, no later than 1200 on Wednesday*. If not received by 1200 on Wednesday, the requested cases may be left off that week's revised docket. The Docketing Memorandum may be submitted via facsimile or electronic mail. The Docketing Judge may designate an alternate date and time for submission to accommodate weeks during which holidays are observed. The Docketing Memorandum shall be in the format provided in attachment 5, and shall list all cases which are to be included on the published docket. *If no cases are to be docketed, a negative submission is required.* The Northern Circuit Docket is a single document for all scheduled cases; however, cases which are docketed for anytime after the upcoming week are considered to be on the long-range docket. The short-range docket (upcoming week) will ordinarily indicate for each case the starting time, courtroom (WNY), and the initials of the detailed military judge.

Local Rule 6.12(N): The Docketing Memorandum shall include, as an enclosure, a PTIR for each case scheduled for the upcoming week listed on the memorandum, even if a PTIR previously has been submitted. If a case has had any previous sessions, the PTIR shall note the date of any session and the presiding military judge.

Local Rule 6.13(N): The Docketing Memorandum consists of three parts. Part One addresses cases to be docketed for the upcoming week, Part Two addresses cases to be docketed on the long-range docket, and Part Three addresses any requested changes to the docket and any logistical concerns (for example, if counsel are requesting a specific time of day due to witness availability).

Local Rule 6.14(N): Part One of the Docketing Memorandum shall include all cases that are to have any sessions during the upcoming week. This includes cases which are being brought before the circuit for the first time, cases in which either counsel is requesting a session, and cases in which a session has been judicially scheduled by a military judge at a previous session. All cases included in Part One must be accompanied by a properly executed PTIR.

Local Rule 6.15(N): Part Two of the Docketing Memorandum shall include all cases that should be included on the long-range docket. Normally, Part Two reflects cases that have previously been docketed pursuant to previous court order, or through the use of a motion for docketing.

Local Rule 6.16(N): Part Three of the Docketing Memorandum shall include any requested changes to the docket. All requested changes to the docket must be justified, and ordinarily require supporting documentation. A motion for continuance, a copy of part one of a signed PTA, and a certificate of withdrawal are all examples of appropriate supporting documentation.

Local Rule 6.17(N): The Circuit Military Judge or Clerk will normally publish the docket by the close of business on the day following the due date of the Docketing Memorandum, which will normally be on Thursday of each week. The docket is published on NKO and distributed by the Clerk of Court to the field. Each Military Justice Officer, Senior Trial Counsel, Senior Defense Counsel, or other officer receiving the docket is responsible to ensure that the docket is distributed to all parties concerned with the scheduling of cases, including the court reporters. *It is the responsibility of each counsel to be aware of each week's published docket.*

Local Rule 6.18(N): Trial deadlines established at an Article 39(a) arraignment session, or by the use of a Motion for Docketing, are not optional. Counsel will adhere to the deadlines and may be called upon to address, on the record, any failure to abide by them.

Local Rule 6.19(N): If a case is withdrawn, documentation of such withdrawal must be submitted to the court. Proper documentation includes a withdrawal letter signed by the convening authority, a certification of withdrawal such as that in attachment 6, or a copy of the charge sheet reflecting the withdrawal action. Cases will not be removed from the docket, and counsel will be expected to appear as scheduled, until such written notification of withdrawal is received by the court.

Local Rule 6.20(N): The detailed military judge is encouraged to use a pretrial order, similar to the form contained in attachment 8, to memorialize the scheduling dates set forth in attachment 3 as well as establish deadlines for compliance with matters of discovery and other pretrial matters.

Local Rule 7: Ex Parte Communications with the Military Judge

Local Rule 7.1(N): Reserved.

Local Rule 8: Conferences

Local Rule 8.1(N): In contested cases, counsel may seek, and the military judge will normally schedule, a trial management R.C.M. 802 conference approximately one week prior to trial on the merits.

Local Rule 9: Discovery

Local Rule 9.1(N): Discovery issues must be resolved expeditiously, as they have a tremendous impact on the ability of counsel to prepare for trial. To prevent discovery issues from unnecessarily delaying trial, the military judge, at arraignment, may require both counsel to state on the record their compliance with discovery requirements.

Local Rule 10: Motions

Local Rule 10.1(N): Motions shall be submitted in accordance with the trial deadlines established by the military judge at the arraignment or as set out in an approved motion for docketing. See Rule 6.18. If no such deadlines have been previously established in a case, counsel shall submit motions 10 days prior, and responses 5 days prior, to the pretrial Article 39(a) session. All motions and responses must be filed in the format contained in attachment 7 and contain the following information:

- (1) A statement of the nature of the motion;
- (2) A summary of the facts supporting the motion;
- (3) A brief discussion of the points of law supporting the motion, including citation of authority as well as argument and conclusions;
- (4) A statement of any evidence to be offered in support of the motion, (e.g., a description or copy of real evidence including photographs, names of witnesses, summaries of expected testimony, etc), a statement of which party bears the burden of production and persuasion, and a request, if any, for the production of a witness for an Article 39(a) motion session;
- (5) A statement of the relief requested, including drafts of any proposed orders; and
- (6) A statement whether oral argument is desired.

Local Rule 10.2(N): Answers to motions will comply with the same requirements as motions, except they will be filed with the detailed military judge as soon as possible or as directed by pretrial order.

Local Rule 10.3(N): Counsel shall prepare proposed findings of fact and conclusions of law to accompany each motion, unless otherwise directed by court order. Proposed findings of fact and conclusions of law must be submitted and timely filed with each motion and response, thereto.

Local Rule 10.4(N): If the motion involves only a dispute between the parties as to the law or an ultimate question of fact, and does not involve the underlying facts, counsel should endeavor to enter into, and prepare, prior to trial, stipulations of fact or of testimony covering those matters.

Local Rule 10.5(N): If cases will be cited in the course of argument before the detailed military judge, a list of cases, not already cited in counsel's brief, will be delivered to the military judge and opposing counsel prior to argument.

Local Rule 10.6(N): It is the responsibility of counsel to ensure prompt delivery of all motions and/or responses as well as all supporting documents by the appropriate filing date and to confirm receipt by the judiciary.

Local Rule 10.7(N): Counsel are reminded that the litigation of motions involves presentation of legal and competent evidence, such as witness testimony, documentary evidence, and/or stipulations. Facts must be established upon which the military judge may make essential findings. Mere averments or proffers of counsel, or statements of fact contained in motions, are not sufficient to establish facts that may form the basis of a ruling.

Local Rule 11: Continuances

Local Rule 11.1(N): If an accused is in pretrial confinement, the military judge may, in his or her discretion, require the accused to personally sign any continuance request.

Local Rule 11.2(N): Counsel do not set trial dates. The detailed military judge has sole responsibility to set or change trial dates. *See* Rule 6. If a continuance is requested and both counsel agree to the requested delay, the detailed military judge may grant the request without an Article 39(a) session or R.C.M. 802 conference in his or her sole discretion.

Local Rule 12: Situs

Local Rule 12(N): Subject to R.C.M. 504(d)(1), the military judge will designate the situs of the trial to any location within the circuit as the interests of justice require.

Local Rule 13: Courtroom Security

Local Rule 13.1(N): Local courtroom security in the Northern Circuit is generally governed by separate instructions applicable in each of the geographic regions/installations covered by the circuit.

Local Rule 13.2(N): In any case where the detailed military judge determines a security problem exists, or where a high security risk or potential risk is present, the trial counsel will ensure a courtroom security officer is appointed and a courtroom security plan is developed. The detailed military judge may delay the trial until satisfied that the court-martial may proceed in a safe manner.

Local Rule 13.3(N): Weapons, except when such are to be exhibits or when otherwise

authorized by the military judge, are not permitted in the courtroom. If firearms are to be marked as exhibits, trial counsel will personally ensure that the firearms have been cleared before they are brought in the courtroom and cannot be fired.

Local Rule 14: Uniforms

Local Rule 14.1(N): The uniform for all sessions of court will be determined by the military judge. *See* R.C.M. 801. In the winter months, the prescribed uniform is service “B” for Marines and Service Dress Blue for Navy (or Service equivalent). In summer months, the prescribed uniform is service “C” for Marines and Summer Whites for Navy (or Service equivalent). Ordinarily, the uniform will be the same as set out above for sessions in which members are present, though Marines may be required to wear Service “A” at the military judge’s discretion. In all cases, when determining which uniform shall be worn, the military judge will give careful consideration to the seriousness with which the proceedings are viewed, customs and traditions of the naval service, as well as the potential for publicity.

Local Rule 14.2(N): Male civilian counsel will wear conservative coat and tie, shirt, and slacks. Female civilian counsel will wear appropriate conservative business clothing.

Local Rule 15: Spectators

Local Rule 15.1(N): Spectators may enter or leave the courtroom while the court-martial is in session, provided that their activity is not disruptive to the proceedings.

Local Rule 15.2(N): Counsel will refrain from conferring with spectators or other non-participants across the bar while the court is in session.

Local Rule 16: Punctuality and Consideration For Members’ Time

Local Rule 16.1(N): Trial counsel will notify the accused's command of the place, date, and time of trial, that the presence of the accused is required, and that appropriate transportation to the situs of the trial should be arranged. Generally, trial counsel is responsible for ensuring the timely presence of an accused who is in pretrial confinement or other restraint. However, after the accused arrives at the place of trial, defense counsel is responsible for the timely presence of an accused at all required court sessions. Defense counsel is also responsible for the timely presence of an accused that is not in pretrial restraint.

Local Rule 16.2(N): Preliminary sessions of court will be held in all cases expected to be tried before members not later than one day before the expected date of trial unless specifically modified by the detailed military judge. Preliminary sessions will be held for the purpose of considering motions, pleas, and other matters normally considered before assembly of the court. Preliminary sessions may be held to consider any other matters at the discretion of the detailed military judge.

Local Rule 16.3(N): When a case is to be tried before a court with members, trial counsel must ensure that the members are notified of the time, place, and uniform for the trial. Reporting times for court members will be scheduled to minimize waiting time for members. Members may be placed on standby or “on call” as deemed necessary by the detailed military judge.

Local Rule 16.4(N): Trial counsel in every trial before members will submit a proposed findings worksheet where any plea of "not guilty" has been entered. If there is more than one charge or specification, if lesser-included offenses are in issue, or if findings by exceptions and substitutions can reasonably be made, the worksheet shall be tailored to reflect each alternative finding. If defense counsel disagrees with the worksheet proposed by trial counsel, defense counsel may submit a proposed worksheet.

Local Rule 16.5(N): Trial counsel in every trial before members will submit a proposed sentencing worksheet when a finding of "guilty" has been reached. If defense counsel disagrees with the worksheet proposed by trial counsel, defense counsel may submit a proposed worksheet.

Local Rule 17: Bailiff

Local Rule 17.1(N): A bailiff will be present at every trial with members or as directed by the military judge. Trial counsel will ensure the bailiff is provided a copy of attachment 9 and is thoroughly briefed as to the bailiff's responsibilities.

Local Rule 17.2(N): The bailiff will not be a witness. The bailiff will not be the unit escort or guard for the accused. If the detailed military judge excuses the presence of a bailiff, the trial counsel will perform the bailiff's duties.

Local Rule 18: Guards

Local Rule 18.1(N): All issues concerning Guards or Courtroom Security will be resolved by the detailed military judge on a case by case basis.

Local Rule 18.2(N): Counsel will immediately notify the detailed military judge of any matters that may affect courtroom security. If matters arise during the course of a trial, counsel will immediately ask for a recess and advise the military judge.

Local Rule 19: Court Reporters

Local Rule 19.1(N): The trial counsel is responsible for keeping the court reporters apprised of the status of all docketed cases, to include, but not limited to: all anticipated delays; continuances; withdrawal of charges; changes of courtrooms and/or location; changes in the anticipated pleas and forum; and the need for court reporter support in unscheduled hearings.

Local Rule 20: Entry and Departure of Military Judge

Local Rule 20.1(N): Reserved.

Local Rule 21: Entry and Departure of Members

Local Rule 21.1(N): Reserved.

Local Rule 22: Voir Dire

Local Rule 22.1(N): Unless directed otherwise by the military judge, all proposed voir dire questions to be asked *en banc* will be submitted for approval in writing on the date designated by the military judge, or in the absence of such date, at least 5 days prior to assembly. Copies of proposed voir dire questions shall be served on opposing counsel. Upon specific request, the military judge may permit counsel to ask additional questions.

Local Rule 22.2(N): During voir dire, counsel will not: (1) argue the case; (2) engage in efforts to establish rapport with members; (3) question members concerning anticipated instructions or theories of law, or members' understanding of various legal principles yet to be explained to them; (4) ask members what kind of findings or sentence they might return under a hypothetical set of facts; or (5) seek a pre-commitment from a member to a factual or legal proposition that is in issue.

Local Rule 22.3(N): The trial counsel is responsible for ensuring that all court members complete the Northern Judicial Circuit Court-Martial Members Questionnaire, attachment 10, on the date designated by the military judge, or in the absence of such date, by assembly. A member may desire to retain the original and provide a copy for court use, and then update the copy as necessary for subsequent trials.

Local Rule 23: Prohibited Items in Courtroom

Local Rule 23.1(N): Smoking, eating, and drinking, except water for trial participants, will not be permitted in the courtroom during open sessions. The military judge, may, in his or her discretion, relax these rules. Trial participants, including all witnesses, will not chew gum, chew tobacco, consume cough drops, etc., or use snuff. Weapons and objects that may be used as weapons, including potential exhibits, will not be permitted in the courtroom without specific authorization of the military judge. See Local Rules 13 and 18.

Local Rule 24: Counsel Decorum

Local Rule 24.1(N): Counsel will refrain from undue familiarity between themselves or in relationship to the members, military judge, or witnesses while court is in session and when in the presence of the accused.

Local Rule 24.2(N): Counsel will direct all argument and responsive statements to the military judge or members, as applicable, and will avoid colloquy or argument towards the other party, except for perfunctory matters of courtesy.

Local Rule 24.3(N): During sessions of the court, no counsel will leave the courtroom without permission of the military judge.

Local Rule 25: Counsel Conduct

Local Rule 25.1(N): Counsel will not, during trial, assert any personal opinion as to the justness of a cause, the credibility of a witness, or the guilt or innocence of an accused; but counsel may argue, based on analysis of the evidence, for any position or conclusion supported by the evidence and any allowable inferences.

Local Rule 25.2(N): Each time the court convenes or reconvenes, the trial counsel will ensure that the military judge is advised of all changes to, or absences of, any parties.

Local Rule 25.3(N): Counsel will follow along in the trial guide to ensure that the military judge makes no unintentional omissions. Should counsel believe that a military judge has made such an omission, he or she shall bring it to the judge's attention immediately upon its discovery.

Local Rule 26: Witnesses

Local Rule 26.1(N): Live, in-person testimony from witnesses is expected (in the absence of a stipulation of expected testimony) during all phases of the trial. In the event either counsel desires to use an alternative to live, in-person testimony (e.g., telephonic testimony or video teleconferencing), counsel must request permission to do so in advance of the session and note the request on the PTIR. This rule applies equally to testimony on the merits and testimony on sentencing. Nothing in this local rule will be construed to limit or alter the military judge's discretion or responsibilities under M.R.E. 611.

Local Rule 26.2(N): Witnesses will be instructed by counsel that they must not chew gum or tobacco, wear dark glasses, or use slang expressions or profanity (except as may be required in the presentation of the facts). Witnesses shall be told not to engage court members or the military judge in casual conversation.

Local Rule 26.3(N): Witnesses will not be crowded, shouted at, ridiculed, humiliated, or otherwise abused.

Local Rule 26.4(N): Counsel will ensure that their respective witnesses will be immediately available when called to testify. This includes informing the witness of the time, location, and uniform for court, as well as making any arrangements necessary to allow a civilian witness to come aboard the base. The fact that the government has agreed to, or has been ordered to, produce a witness on behalf of the defense, does not relieve the defense counsel of these requirements for defense witnesses. Counsel will coordinate with each other and the military judge to reduce, whenever practicable, the amount of time a witness is required to wait prior to testifying; however, availability is always more important than convenience.

Local Rule 26.5(N): To the greatest extent practicable, trial counsel will ensure that separate waiting areas for government and defense witnesses are provided.

Local Rule 26.6(N): Witnesses ordinarily will not be present in court during trial. Counsel are responsible for ensuring their witnesses are aware of and comply with this rule. The detailed military judge may permit a witness to remain in the courtroom after the witness has testified, or otherwise, upon a showing of good cause. This rule is not to be construed as limiting M.R.E.

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Local Rule 26.7(N): No later than five business days prior to trial, counsel who intend on using an interpreter will notify the detailed military judge and opposing counsel of the interpreter's identity and provide a brief summary of his/her qualifications. Any anticipated objection to the proposed interpreter will be provided to the detailed military judge as soon as possible but no later than two business days prior to the date of trial.

Local Rule 26.8(N): Counsel will provide witnesses with information and assistance concerning the availability of services such as transportation, parking, childcare, lodging, and courtroom translators or interpreters.

Local Rule 27: Objections

Local Rule 27.1(N): An objection or argument for the purpose of making a speech, recapitulating testimony, or attempting to guide a witness is prohibited.

Local Rule 28: Stipulations

Local Rule 28.1(N): Reserved.

Local Rule 29: Offers of Proof

Local Rule 29.1(N): Reserved.

Local Rule 30: Judicial Notice

Local Rule 30.1(N): Reserved.

Local Rule 31: Exhibits

Local Rule 31.1(N): In formulating questions to witnesses concerning an exhibit, counsel will refer to the exhibit by its exhibit number or letter.

Local Rule 31.2(N): Use of electronic media is encouraged. However, counsel must obtain the express, prior approval of the military judge before using any form of electronic media in any session of court. Counsel using electronic media are directed to Uniform Rule 31.4 and attachment 12 of these rules.

Local Rule 31.3(N): Exhibits will be marked by the court reporter, not the counsel, in the anticipated order of presentation before the trial is scheduled to commence or during recesses.

Local Rule 31.4(N): The proponent of documentary or photographic evidence will arrange to have a copy of the original exhibit on the date of trial for each member of the court as well as a copy for the military judge.

Local Rule 31.5(N): Any exhibits (including computer generated exhibits or any other exhibits or demonstrative aids prepared prior to trial) or evidence intended for use during argument or opening statement, must first be shown to opposing counsel and then be approved for use by the military judge. Counsel are advised to diligently practice the use of such exhibits, particularly computer generated exhibits, prior to any session of court. Further, counsel must ensure computer-generated exhibits are properly duplicated by hard-copy print-outs for inclusion in the record of trial.

Local Rule 31.6(N): Counsel intending on using demonstrative aids, such as charts, diagrams, videotapes, audiotapes or any other technological presentations during their opening arguments, closing arguments or cases-in-chief shall provide notice to the detailed military judge and opposing counsel no less than two days prior to trial.

Local Rule 32: Instructions

Local Rule 32.1(N): Reserved.

Local Rule 33: Record of Trial

Local Rule 33.1(N): The trial counsel is responsible for ensuring that the record of trial is prepared in a timely and accurate manner. The defense counsel will be permitted to review the record of trial prior to it being submitted to the military judge for authentication. The review by defense counsel, or lack thereof, must be documented in the record before the military judge will authenticate the record. Attachment 11 will be used to document this pre-authentication review, and be included in the record of trial.

Local Rule 33.2(N): All corrections to the record will be initialed by the trial counsel or military judge. Defense counsel will not mark the record of trial, but may suggest to the trial counsel appropriate changes. See R.C.M. 1103 (i)(1)(b). In accordance with appellate case law such as *Moreno* and more recently, *Foster*, counsel must be aware of post-trial delay issues and expeditiously review all records of trial in their possession. The trial judge retains the right to hold post-trial 39(a) sessions in cases where unreasonable post-trial delay appears to be an issue.

Local Rule 34: Document Size

Local Rule 34.1(N): All pleadings filed with the court, not specifically provided for in these rules, shall be consistent to the greatest degree practicable with the format provided in attachment 7. All documents filed with the court should be on 8.5 inch by 11 inch paper, double spaced, and should be in a 12-point Times New Roman or Courier New font.

Local Rule 35: Closing Arguments

Local Rule 35.1(N): Arguments will be limited to matters in evidence and all inferences fairly and reasonably to be drawn from the evidence, together with reference to matters of common and everyday knowledge. Counsel will not assert a personal belief in the justice of his or her cause or in the guilt or innocence of the accused, nor may counsel personally vouch for the credibility or lack of credibility of witnesses.

Local Rule 35.2(N): Unless specifically authorized in advance by the military judge, each counsel is limited to one hour of closing argument on the merits. If the trial counsel chooses to make both an opening and a rebuttal argument on the merits, the counsel is limited to one hour total for both arguments. Only one counsel may argue for each side.

Local Rule 36: Accused's Unsworn Statement

Local Rule 36(N): Unsworn statements will not be made from the witness stand. They will be made from the counsel table or at another location authorized by the military judge.

Local Rule 37: Appellate Exhibits

Local Rule 37(N): To save time during trial, trial counsel and defense counsel shall endeavor to have all appellate exhibits marked by the court reporter before trial and shown to the opposing counsel. To save time during trial, counsel offering an appellate exhibit should make a copy for the detailed military judge and opposing counsel.

Local Rule 38: Terms of Court

Local Rule 38(N): Terms of Court (ToCs) currently are utilized in Groton, CT and the European AoR. They are intended as management tools to assist counsel and the Northern Circuit docketing judge for case planning in areas where military judges are not regularly present. Although the methods for utilizing terms of court will likely fluctuate between set terms and flexible terms as necessary based on Circuit/area caseload and the interests of justice, counsel should attempt to utilize set terms where possible. At a minimum, counsel in these locations must continually look at upcoming cases and be in constant contact with the court about events that might affect judicial support requirements. See attachment 13.

Attachments:

- (1) Civilian Counsel Notice of Appearance
- (2) PTIR
- (3) Motion for Docketing/Continuance
- (4) Notice of Pleas and Forum
- (5) Docketing Memorandum
- (6) Certification of Withdrawal
- (7) Motion Format
- (8) Pretrial Order
- (9) Bailiff's Handbook
- (10) Member's Questionnaire
- (11) Authentication of Record of Trial
- (12) Technology Supplement
- (13) Chief Trial Judge's Terms of Court guidance